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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/648,726 | 08/26/2003 | Ronald L. Mahany | 14418US02 | 4708 |

23446 7590 07/06/2005

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EXAMINER

CANGIALOSI, SALVATORE A

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3621

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---|--|--|
| Office Action Summary | Application No. 10/648,726 | Applicant(s) MAHANY, RONALD L. | |
| | Examiner Salvatore Cangialosi | Art Unit 3621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/09/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-42 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1.35 U.S.C. 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

2. Claims 11-42 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-13, 15-20, 22-34 of prior U.S. Patent No. 6,665,536. This is a double patenting rejection.

((patent=application) 1=11, 2=12, 3=13, 4=14, 5=15, 6=16, 7=17, 8=18, 9=19, 10=20, 11=21, 12=22, 13=23, 15=24, 16=25, 17=26, 18=27, 19=28, 20=29, 22=30, 23=31, 24=32, 25=33, 26=34, 27=35, 28=36, 29=37, 30=38, 31=39, 32=40, 33=41, 34=42)

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10, drawn to hybrid spread spectrum network, classified in class 375, subclass 131.

II. Claims 11-42, drawn to wireless LAN, classified in class 455, subclass 432.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are unrelated.

Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects

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(MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions do not require the particulars of each other, i.e. hybrid spread spectrum communication of Group I is not required in the claims of Group II.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

It is also noted that the claims of group I appear readable on the definition of subclass 131 of class 375 and most patents therein.

This case also appears to be a duplicate of 10/648,707.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

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Any response to this action should be mailed to:


Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to (703) 872-9306

Hand delivered responses should be brought to

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SALVATORE CANGIALOSI
PRIMARY EXAMINER
ART UNIT 222